

11 SEP 1986

CERTIFIED MAIL

Ladies and Gentlemen:

We have considered your application for recognition of exemption from Federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code.

The data submitted discloses you were incorporated under the laws of the State of [REDACTED] on [REDACTED]. Your stated purpose is to promote the use of diesel-powered private transportation for the benefit of the public of the United States. You further state the corporation's main thrust is to improve and magnify the advantageous role that the diesel engine needs to play in the private transportation of the [REDACTED] over the near future.

Membership in your organization is available to all persons or companies, interested in diesel performance and production with respect to passenger car or light duty truck operation.

You have engaged in no activities to date and have printed no publications to date. You plan to assist diesel owners by:

1. Unifying diesel car owners on a national basis to make their voice heard at [REDACTED] and elsewhere;
2. Assisting member-owners in getting the repairs they need, with the manufacturer paying the bill where "design" is the problem;
3. Pursuing, as appropriate, legal action on behalf of its members, to protect their legal right and their investment;
4. Negotiating directly with [REDACTED] and other manufacturers on behalf of its members with regard to their claims;
5. Providing members with periodic newsletters regarding vehicle statistics and other information of interest to diesel car owners;

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	9/2/86	Caplan	9/11/86				

6. Providing a computerized resource upon which members can draw with reference to their particular vehicle and repair history.
7. Improving transportation in the United States in all its aspects through encouragement and promotion of diesel-powered automobiles and light-duty trucks, and enhancing and promoting the use of diesel-powered private transportation for the benefit of the U. S. public.

Your income will be derived primarily from membership dues.

Section 501(c)(3) of the Internal Revenue Code exempts organizations organized and operated exclusively for charitable, religious, or other purposes specified in that section, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a) of the income tax regulations state that in order to be exempt under 501(c)(3), an organization must be both organized and operated exclusively for 501(c)(3) purposes. An organization that fails to meet either the organizational test or the operational test is not exempt.

Section 1.501(c)(3)-1(b) of the regulations provides that the organizational test is not met if the organization's purposes, as stated in its articles, are broader than those specified in Section 501(c)(3).

Section 1.501(c)(3)-1(c) states that an organization is not operated exclusively for one or more exempt (501)(c)(3) purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d) states an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet requirements, an organization must establish that it is not organized or operated for the benefit of private interests, such as those of the creator or his family.

In construing the meaning of the phrase "exclusively for educational purposes" in *Better Business Bureau v. U.S.*, 326 U.S. 279 (1945), Ct. D 1650, 1945 C.B. 375, the Supreme Court of the United States said, "This plainly means that the presence of a

[REDACTED]

single noneducational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes." This rationale applies equally to any specified purpose under Section 501(c)(3).

In Revenue Ruling, 69-232, 1969 CB2, 120 a non-profit organization composed of members of a particular industry to develop new and improved uses for existing products of the industry is not exempt under Section 501(c)(3) of the Code, but may qualify for exemption under Section 501(c)(6).

In carrying out your purpose you plan to assist members in getting the repairs they need, negotiate with [REDACTED] and other manufacturers on behalf of members and pursue legal action on behalf of members to protect their legal rights and investments.

On the basis of the evidence presented we find that you are not organized or operating exclusively for exempt purposes under Section 501(c)(3) since you are serving the private interest of your members. We have concluded you are not an organization described in Section 501(c)(3) of the Code. Contributions made to your organization are not deductible.

Further, based on the information furnished, we are not able to recognize you as exempt under any related section of the Code.

You are therefore required to file Federal income tax returns on Form 1120. Also the appropriate state officials will be routinely notified of this action in accordance with Section 6104(c) of the Code.

If you do not accept our findings, we recommend that you request for a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as

[REDACTED]

a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]  
District Director

Enclosure: Publication 892

[REDACTED]